

# PATENT AND TRADE-MARK LAWS

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AND

## CONVENTIONS.

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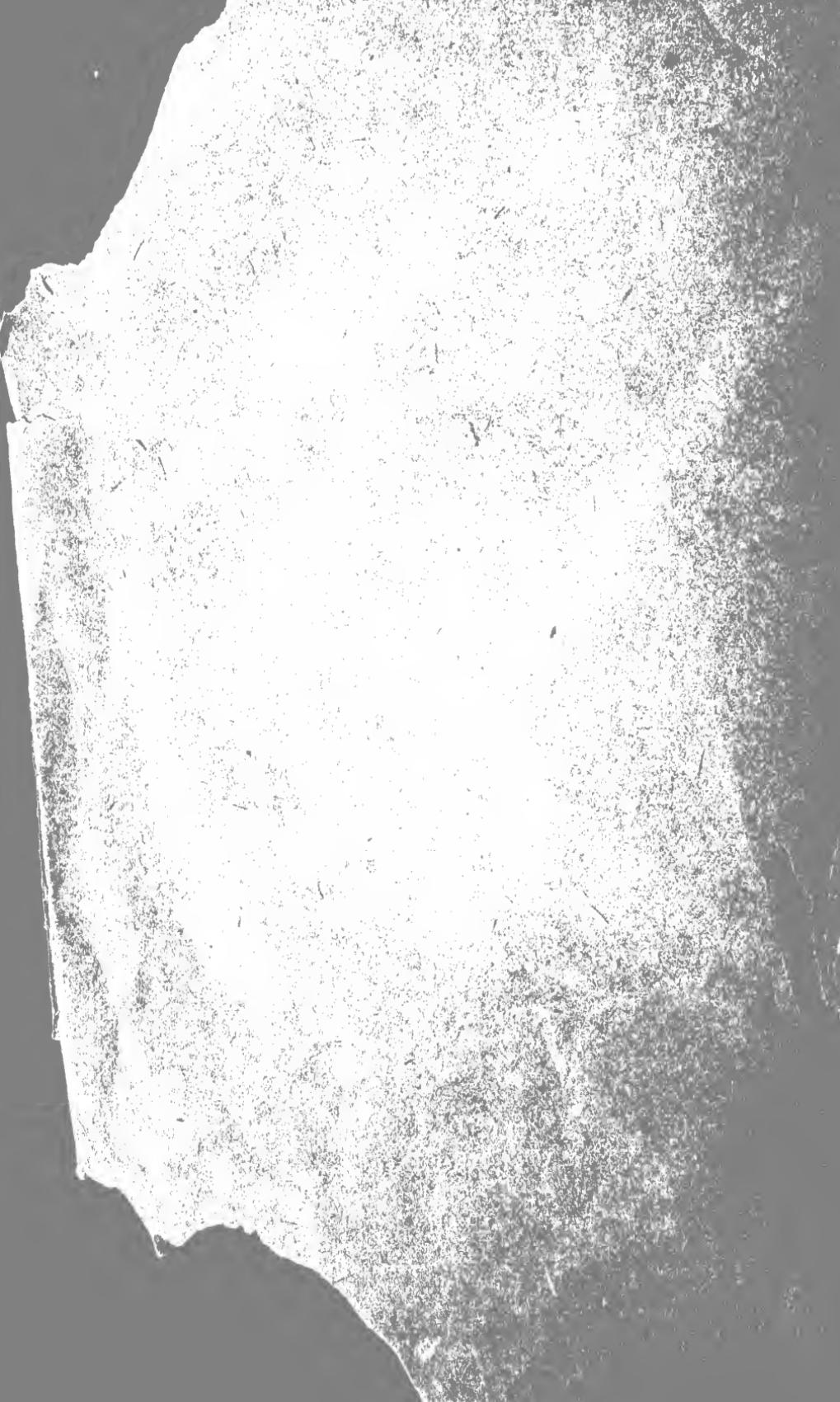
BEING A PRELIMINARY REPORT TO THE COMMISSIONER  
OF PATENTS UPON THE REQUIREMENTS OF  
SENATE RESOLUTION OF MARCH 3, 1893.

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By EXAMINER F. A. SEELY.

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WASHINGTON:  
GOVERNMENT PRINTING OFFICE.  
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## PATENT AND TRADE-MARK LAWS AND CONVENTIONS.

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UNITED STATES PATENT OFFICE,  
Washington, D. C., July 1, 1893.

SIR:

On March 7 last I received the following order:

Please report to the Commissioner, in writing, your views on Senate resolution dated March 3, 1893, hereto inclosed, returning the resolution at the same time.

N. L. FROTHINGHAM,  
*Acting Commissioner.*

The resolution referred to is as follows:

*Resolved*, That the Secretary of the Interior is directed to ascertain what legislation, if any, is necessary to enforce the provisions of existing treaties or conventions with foreign countries with respect to patents and trade-marks, or to secure to citizens of the United States the enjoyment of privileges in foreign countries corresponding to those enjoyed by the citizens or subjects of such countries in the United States, and to report his conclusions to the Senate at the next session of Congress.

On the receipt of this resolution at the Interior Department it was referred to the Commissioner of Patents for his consideration and report, and since the above-named date has been on my desk for compliance with the Acting Commissioner's directions. I now have the honor to submit a partial and preliminary report.

The resolution requires two things: (1) a report as to the legislation necessary to comply with existing treaties or conventions, and (2) a report as to the legislation necessary to secure full reciprocity to American citizens in foreign countries. The former calls for a close scrutiny of existing treaties to determine the obligations they impose, and of the existing United States statutes, so far as to ascertain how far they already fulfill these obligations. The latter calls for a similar scrutiny of the laws and practice in foreign nations, in order to ascertain wherein they fall short of conferring reciprocal privileges upon Americans. Whatever default may appear in this regard, it is evident that it is not to be cured by Congressional action, except as such action may furnish the basis for diplomacy.

In order to lay before the Senate intelligently the requirements of existing conventions, I have thought it best to collate all of these so far as they relate to patents and trade-marks, or what is known under the generic name *industrial property*.

Following these in logical order I have introduced those sections of the United States patent and trade-mark laws which relate more particularly to the rights of aliens. If any legislation is required to fulfill the obligations of conventions, it would appear to lie principally in the direction of a modification of these sections.

To these I add a concise statement of the patent and trade-mark laws of the three leading commercial nations of Europe, those with which Americans have the closest industrial relations. It would add too much to the bulk of this report to include statements, however concise, of the laws of all nations, and it is reasonable to believe that whatever difficulties American citizens may encounter in seeking protection for their industrial property elsewhere will be overcome by any methods which may be efficacious for that purpose in these three nations.

But all the conditions of the second requirement of the resolution are not exhibited without including in this compilation the international arrangement entered into by certain nations April 14, 1891, which in certain features constitutes a menace to a growing American industry by refusing the protection of the courts to its products in certain circumstances. So far as I am aware, neither Congress nor the American public are informed of the existence of this arrangement, which is at any time liable to create a case for diplomatic interference.

Although in this letter I have referred to the various matters of this report in the logical sequence required by the resolution, yet for purposes of ready comparison I have arranged them in a somewhat different order.

I have the honor to remain,

very respectfully,

your obedient servant,

F. A. SEELY.

Hon. JOHN S. SEYMOUR,  
*Commissioner of Patents.*

## I.—PATENT LAWS.

[Including those sections of the United States patent law which relate more particularly to the rights of aliens, and a brief statement of the patent laws of Great Britain, France, and Germany in the same regard.]

### UNITED STATES PATENT LAW.

#### 1. REVISED STATUTES.

**SEC. 4886.** Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor.

**SEC. 4887.** No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country, unless the same has been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term, and in no case shall it be in force more than seventeen years.

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**SEC. 4923.** Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

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**SEC. 4892.** The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or when the

applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent, holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be.

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**SEC. 4902.** Any citizen of the United States who makes any new invention or discovery, and desires further time to mature the same, may, on payment of the fees required by law, file in the Patent Office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application is made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof by mail to the person by whom the caveat was filed. If such person desires to avail himself of his caveat, he shall file his description, specifications, drawings, and model within three months from the time of placing the notice in the post-office in Washington, with the usual time required for transmitting it to the caveat or added thereto; which time shall be indorsed on the notice. An alien shall have the privilege herein granted, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

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## 2. ACT OF APRIL 6, 1892.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no citizen of any other country shall be held liable for the infringement of any patent granted by the United States, or of any trade-mark or label registered in the United States, where the act complained of is or shall be performed in connection with the exhibition of any article or thing at the World's Columbian Exposition at Chicago.*

## BRITISH PATENT LAW.

The British law is in the patents, designs, and trade-mark act of 1883, with its subsequent amendments.

Patents are granted to actual inventors, whether British subjects or not, or to the first who introduces an invention into Great Britain.—(Sec. 4.) In case of a foreigner the patent may be taken out in his

own name, or in the name of a resident agent as a communication from abroad. But the person residing abroad is not required to be the inventor, since the person to whom the invention is communicated must himself claim to be the "true and first inventor."—(Sec. 5 [2].)

The invention must be novel to the extent that it shall not have been published or used in Great Britain prior to the application, otherwise the patent may be revoked.—(Sec. 26.) Publication or public use abroad is no bar to validity. Apart from the fees payable on taking out the patent, there are annual taxes, the amount of which is fixed by the Board of Trade from time to time. Since October, 1892, they are as follows: £5 before the beginning of the fifth year of the patent, and these annually increasing by £1 a year till the fourteenth year, when they are £14. If these taxes are not paid the patent becomes void.—(Sec. 17 [2].)

The patent is dated and sealed as of the date of application, and runs fourteen years.—(Sec. 13.)

If, by reason of the patentee refusing to grant licenses, the patent is not worked in the realm, or the public requirements regarding the invention are not supplied, or any person is hindered from using to the best advantage an invention of which he is possessed, it is in the power of the Board of Trade to compel the grant of licenses on such terms as it may deem just.—(Sec. 27.)

It is provided that, when an arrangement exists with any foreign country for the mutual protection of inventions, then any person who has applied for protection of his invention in such country shall be entitled to a patent thereon in priority to other applicants; and such patent shall have the same date as the application in such foreign state; provided the application is made in Great Britain within seven months from the date of that in the foreign country.—(Sec. 103.)

Under certain conditions the exhibition of an unpatented invention at an industrial or international exhibition will not prejudice the subsequent right of the inventor to obtain a patent.—(Sec. 39.)

#### FRENCH PATENT LAW.

Letters patent for inventions are principally regulated in France by the law of July 5, 1844.

Patents for invention are granted to the authors of new discoveries or inventions, and patents of importation to those who first introduce such into France. These patents are for the same term and are granted under similar conditions.

There is no examination into novelty.—(Art. 11.)

The limit of duration is fifteen years.—(Art. 4.)

The fee is 1500 francs, which may, however, be paid in annual installments of 100 francs each. In default of any one payment the patent will expire by forfeiture.—(Art. 4.)

There is no discrimination against foreigners (Art. 27), and inventions already patented abroad may be patented to their inventors, the duration of the French patent not to exceed that of the prior foreign patent.—(Art. 29.)

But the patent is void if, prior to the deposit of the application, the invention has been made public in France or in a foreign country, since in that case the invention is held not to possess novelty.—(Art. 31.)

The patentee is bound to work his invention in France within two years from the grant, and not to cease the working for any two consecutive years thereafter, under pain of forfeiture.—(Art. 32, 2.) Only actual manufacture is held to constitute working.

Forfeiture is also entailed by the introduction into France of articles of foreign origin similar to those patented.—(Art. 32, 3.)

This provision of law is modified to some extent by Article 5 of the International Convention of 1883, which is now part of the law in France.

A special law provides for the protection of inventors who exhibit their unpatented inventions in public expositions authorized by the government.—(Act of May 23, 1868.)

#### GERMAN PATENT LAW.

The Imperial German patent law is to be found in an enactment of April 7, 1891. Its provisions are substantially as follows:

A foreigner may obtain a patent through a representative resident in Germany (Sec. 12), and the first applicant is entitled to the grant. It will be refused if the invention is not considered patentable.—(Sec. 3.)

An invention is not regarded as novel if before the date of application it has been described in a printed publication in any country, or has been in public use in Germany. But exception is made in favor of those publications officially made in any foreign country which grants reciprocity to German subjects. This privilege lasts three months from the date of the publication, and is only to exist after the fact of reciprocity is guaranteed by announcement from the Imperial Chancellor.—(Sec. 2.)

The duration of the patent is 15 years, beginning the day following that of the application.—(Sec. 7.)

A fee of 30 marks is payable before the grant of the patent, and a further fee at the beginning of each subsequent year; the first being 50 marks, and increasing by 50 marks annually for the term of the patent.—(Sec. 8.) The patent is forfeited by failure to pay these fees within three months after they become due.—(Sec. 9.)

It may also be revoked after three years if the invention is not worked in Germany, or if a license is refused to others to work it on

reasonable terms.—(Sec. 11.) In a procedure to nullify a patent a foreign petitioner must give the other party security for the costs of the suit, the amount of security to be fixed by the Patent Office.—(Sec. 28.)

## II.—TRADE-MARK LAWS.

[Including those sections of the United States trade-mark statutes which more particularly define the rights of aliens, and a statement of the laws of Great Britain, France, and Germany to the same effect, with the full text of an international arrangement concluded April 14, 1891, between certain nations for the repression of false indications of origin upon merchandise.]

### UNITED STATES TRADE-MARK LAW.

#### 1. ACT OF MARCH 3, 1881.

*Be it enacted, etc.* [Section 1], That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States or located in any foreign country or tribes, which, by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

SEC. 2. That the application prescribed in the foregoing section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac-similes presented for registry truly represent the trade mark sought to be registered.

SEC. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes, as above mentioned, or is within the provision of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another, and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant, or between applicants, he shall follow, so far as

the same may be applicable, the practice of courts of equity of the United States in analogous cases.

SEC. 5. That a certificate of registry shall remain in force for thirty years from its date, except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years such registration may be renewed on the same terms and for a like period.

SEC. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country, the laws of which require registration here as a condition precedent to getting such protection there, may register their trade-marks for that purpose as is above allowed to foreigners, and have certificate thereof from the Patent Office.

## 2. ACT OF OCTOBER 1, 1890.

SEC. 7. That on and after March 1, 1891, no article of imported merchandise which shall copy or simulate the name or trade-mark of any domestic manufacture or manufacturer shall be admitted to entry at any custom-house of the United States. And in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer who has adopted trade-marks may require his name and residence and a description of his trade-marks to be recorded in books which shall be kept for that purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department facsimiles of such trade-marks; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of the customs.

SEC. 6. That on and after the 1st day of March, 1891, all articles of foreign manufacture, such as are usually or ordinarily marked, stamped, branded, or labeled, and all packages containing such or other imported articles, shall, respectively, be plainly marked, stamped, branded, or labeled in legible English words, so as to indicate the country of their origin, and unless so marked, stamped, branded, or labeled they shall not be admitted to entry.

## BRITISH TRADE-MARK LAW.

This law is included in sections XLII-LXXXVIII of the patents, designs, and trade-marks act.

Any person who claims to be the proprietor of a trade-mark may register it, whether he be a British subject or not.—(Sec. 62.)

Application must be made to the Comptroller of the Patent Office, who will at once advertise it, when the registration shall be subject to opposition. In case of there being no opposition, or of its being overcome, the trade-mark shall be registered.—(Sects. 68, 69.)

Registration is *prima facie* evidence of ownership, becoming conclusive after five years.—(Sect. 76.) It is a condition precedent to the institution of a suit for damages for infringement.—(Sect. 77.)

The term of registration is fourteen years, but renewable on expiration by payment of the prescribed fee.—(Sect. 79.) Fees not fixed by law, but to be prescribed from time to time by the Board of Trade with the approval of the Treasury.—(Sect. 80.)

In the same act it is provided that when an arrangement exists between Great Britain and any foreign state for the mutual protection of trade-marks, then any person who has applied for protection of his trade-mark in any such state shall be entitled to registration of the same in Great Britain in priority to other applicants; and such registration shall have the same date as that of the protection in the foreign state: *Provided*, The application is made within four months from the date of application in the foreign state.—(Sect. 103.)

Goods of foreign manufacture bearing a name or trade-mark purporting to be that of a British manufacturer or trader are prohibited from importation unless such name or mark is accompanied by a definite indication of the country in which the goods were produced.—(Merchandise marks act of 1887, sec. 16.)

Also goods bearing a name identical with or colorably imitating the name of a place in the United Kingdom, unless accompanied by the name of the country in which such place is situate, are prohibited from importation.—(*Idem.*)

All such goods if sold or offered for sale in the United Kingdom are liable to seizure and the person offending is subject to fine and imprisonment.—(Same act, sec. 3.)

#### FRENCH TRADE-MARK LAW.

Marks of manufacture and trade are protected in France principally under the law of June 23, 1857, together with the *règlement d'administration* of February 27, 1891. No one can assert the exclusive right to a mark without depositing copies of it with the clerk of the *tribunal de commerce* of his domicile.—(Art. 2.)

The term of protection is fifteen years, renewable for a similar term by a new deposit.—(Art. 3.)

For each mark there is a fee of 1 franc for the preparation and transmission of the record, which does not include the cost of the seal and of registry.—(Art. 4.)

Foreigners whose business establishments are out of France may enjoy the benefit of the law when by treaty or law French citizens

enjoy the same privilege in the respective foreign countries. In this case the deposit must be made with the clerk of the *tribunal de commerce* of the Department of the Seine.—(Art. 6.)

Foreign products bearing either the name or trade-mark of a French producer or an indication of French origin are prohibited from entry in France and excluded from transit, and are liable to seizure wherever found.—(Art. 19.)

The International Convention of March 20, 1883, having been promulgated in France, has become the law of the land, and its provisions, so far as they relate to trade-marks, are to be equally binding with other legislation.

#### GERMAN TRADE-MARK LAW.

The imperial law for the registration and protection of trade-marks is embodied in the act of November 30, 1874.

No person can acquire a right to a trade-mark the registration of which is not permitted by law.—(Sec. 10.)

Manufacturers and merchants whose firm names have been entered in the commercial register may file applications for registration of their trade-marks before a competent court.—(Sec. 1.)

Trade-marks are not registrable which consist entirely of letters or words, or which contain public armorial bearings or offensive representations.—(Sec. 3.)

The fee is 50 marks.—(Sec. 7.)

Foreigners shall enjoy the benefit of this act when German trade-marks are protected by law in their respective countries, provided the owner of the trade-mark in every case shall with his application make himself amenable to the jurisdiction of the court of commerce in respect to complaints regarding his mark, and shall accompany the application by proof that he is protected in his own country.—(Sec. 20.)

This protection shall continue as long as the alien owner is protected in the exclusive use of the mark at home.—(Sec. 20.)

The German courts have held that when a treaty exists with another country for the reciprocal protection of trade marks, then marks of citizens of such country may be registered, though they consist of letters or words only, if they have first been registered in the country of origin.

#### INTERNATIONAL ARRANGEMENT FOR THE REPRESSION OF FALSE INDICATIONS OF ORIGIN UPON MERCHANDISE, CONCLUDED APRIL 14, 1891, BETWEEN BRAZIL, FRANCE, GREAT BRITAIN, GUATEMALA, PORTUGAL, SPAIN, SWITZERLAND, AND TUNIS.

**ARTICLE 1.** Every product bearing a false indication of origin in which one of the contracting states, or a place situated in one of them, shall be, directly or indirectly, indicated as country or place of origin, shall be seized on importation into any one of said states.

The seizure may also be effected in the country where the false indication of origin shall have been affixed or in that in which the product bearing the false indication shall have been introduced.

If the legislation of a state does not admit of seizure on importation, such seizure shall be replaced by prohibition of importation.

If the legislation of a state does not admit of internal seizure, such seizure shall be replaced by the actions and means which the law of that state accords to its citizens in similar cases.

**ART. 2.** The seizure shall be made either at the request of the public prosecutor or of an interested party, individual, or corporation, conformably with the domestic legislation of such State.

The authorities shall not be required to cause the seizure in case of transit.

**ART. 3.** The present stipulations shall not prevent the indication by the vendor of his name or his address upon goods coming from a country other than that in which they are sold; but in such case the address or the name should be accompanied by the exact indication, in plain characters, of the country or place of manufacture or production.

**ART. 4.** The courts of each country shall decide what are the appellations which by reason of their generic character avoid the stipulations of the present arrangement; provided, however, that regional appellations of origin of vineyard products are not included in the reservation fixed by this article.

**ART. 5.** The States of the Union for the Protection of Industrial Property which have not taken part in the present arrangement shall be admitted to accede thereto, upon application and in the manner prescribed by article 16 of the Convention of March 20, 1883, for the Protection of Industrial Property.

### III.—CONVENTIONS NOW IN FORCE BETWEEN THE UNITED STATES AND OTHER NATIONS FOR THE RECIPROCAL PROTECTION OF INDUSTRIAL PROPERTY.

#### AUSTRIA-HUNGARY.

*Convention relative to trade-marks, concluded November 25, 1871; ratifications exchanged at Vienna, April 22, 1872; proclaimed June 1, 1872.*

#### ARTICLE I.

Every reproduction of trade-marks which in the countries or territories of the one of the contracting parties are affixed to certain merchandise to prove its origin and quality is forbidden in the countries or territories of the other of the contracting parties, and shall give to the injured party ground for such action or proceedings to prevent such reproduction, and to recover damages for the same, as may be authorized by the laws of the country in which the counterfeit is proven, just as if the plaintiff were a citizen of that country.

The exclusive right to use a trade-mark for the benefit of citizens of the United States in the Austro-Hungarian Empire, or of citizens of the Austro-Hungarian Monarchy in the territory of the United States, cannot exist for a longer period than that fixed by the law of the country for its own citizens. If the trade-mark has become public property in the country of its origin, it shall be equally free to all in the countries or territories of the other of the two contracting parties.

## ARTICLE II.

If the owners of trade-marks, residing in the countries or territories of the one of the contracting parties, wish to secure their rights in the countries or territories of the other of the contracting parties, they must deposit duplicate copies of those marks in the Patent Office at Washington and in the Chambers of Commerce and Trade in Vienna and Pesth.

## ARTICLE III.

The present arrangement shall take effect ninety days after the exchange of ratifications, and shall continue in force for ten years from this date.

In case neither of the high contracting parties gives notice of its intention to discontinue this Convention twelve months before its expiration, it shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

## ARTICLE IV.

The ratifications of this present Convention shall be exchanged at Vienna within twelve months, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed the present Convention as well in English as in German and Hungarian, and have affixed thereto their respective seals.

Done at Vienna the 25th day of November, in the year of our Lord 1871, in the ninety-sixth year of the Independence of the United States of America, and in the twenty-third year of the reign of His Imperial and Royal Apostolic Majesty.

[SEAL.]

[SEAL.]

JOHN JAY.

ANDRÁSSY.

On the 10th of June, 1891, the Austro-Hungarian Department of Commerce issued a decree, No. 23208, to the following effect:

Marks of subjects of Sweden and Norway, as well as (citizens) of the United States of North America, are, by reason of the special conditions of the Trade-Mark Conventions of May 10, 1890, and of November 25, 1871, admitted to registration even when they only consist of names, firms, and other words, if proof is produced that the same are registered in the home country.

## BELGIUM.

*Treaty of commerce, navigation, and trade-marks, concluded March 8, 1875; ratifications exchanged at Brussels June 11, 1875; proclaimed June 29, 1875.*

## ARTICLE XV.

The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise, to show its origin and quality, shall be strictly prohibited, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade-marks in which the citizens of one of the two countries may wish to secure the right of property in the other must be lodged, to wit: the marks of citizens of the United States, at Brussels, in the office of the clerk of the Tribunal of Commerce; and the marks of Belgian citizens, at the Patent Office in Washington.

It is understood that if a trade-mark has become public property in the country of its origin, it shall be equally free to all in the other country.

## ARTICLE XVI.

The present treaty shall be in force during ten years from the date of the exchange of the ratifications, and until the expiration of twelve months after either of the high contracting parties shall have announced to the other its intention to terminate the operation thereof, each party reserving to itself the right of making such declaration to the other at the end of the ten years above mentioned; and it is agreed that after the expiration of the twelve months of prolongation accorded on both sides this treaty and all its stipulations shall cease to be in force.

## ARTICLE XVII.

This treaty shall be ratified, and the ratifications shall be exchanged at Brussels within the term of nine months after its date, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed the present treaty in duplicate, and have affixed thereto their seals at Washington, the 8th day March, 1875.

[SEAL.]

[SEAL.]

HAMILTON FISH.

MAURICE DELFOSSE.

*Convention concerning trade-marks, concluded April 7, 1884; ratifications exchanged at Washington July 7, 1884; proclaimed July 9, 1884.*

### ARTICLE I.

Citizens of the United States in Belgium and Belgian citizens in the United States of America shall enjoy, as regards trade-marks and trade-labels, the same protection as native citizens, without prejudice to any privilege or advantage that is or may hereafter be granted to the citizens of the most favored nation.

### ARTICLE II.

In order to secure to their marks the protection provided for by the foregoing article, the citizens of each one of the contracting parties shall be required to fulfill the law and regulations of the other.

### ARTICLE III.

The present arrangement shall take effect on the day of its official publication, and shall remain in force until the expiration of the twelve months following the notice, given by either of the contracting parties, of its desire for the cessation of its effects.

The ratifications of this convention shall be exchanged at Washington as soon as possible within one year from this date.

In testimony whereof the respective plenipotentiaries have signed this convention in duplicate, in the English and French languages, and affixed thereto the seals of their arms.

Done at Washington the 7th day of April, in the year of our Lord 1884.

[SEAL.]  
[SEAL.]

FREDK. T. FREILINGHUYSEN.  
THRE. de BOUNDER de MELSBROECK.

### BRAZIL.

*Agreement concerning trade-marks, concluded September 24, 1878; proclaimed June 17, 1889.*

The Government of the United States of America and the Government of His Majesty the Emperor of Brazil, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The citizens or subjects of the two high contracting parties shall have in the dominions and possessions of the other the same rights as belong to native citizens or subjects in everything relating to property in marks of manufacture and trade.

It is understood that any person who desires to obtain the aforesaid protection must fulfill the formalities required by the laws of the respective countries.

In witness whereof the undersigned, duly authorized to this end, have signed the present agreement and have affixed thereto the seals of their arms.

Done in duplicate at Rio de Janeiro the 24th day of the month of September, 1878.

[SEAL.]

[SEAL.]

HENRY WASHINGTON HILLIARD.

B. de VILLA BELLA.

#### DENMARK.

*Convention for the reciprocal protection of trade-marks and trade labels, concluded at Copenhagen, June 15, 1892; proclaimed October 12, 1892.*

With a view to secure for the manufacturers in the United States of America, and those in Denmark, the reciprocal protection of their trademarks and trade labels, the undersigned, duly authorized to that effect, have agreed on the following dispositions:

#### ARTICLE I.

The subjects or citizens of each of the high contracting parties shall in the dominions and possessions of the other have the same rights as belong to native subjects or citizens in everything relating to trademarks and trade labels of every kind.

Provided, always, that in the United States the subjects of Denmark, and in Denmark the citizens of the United States of America, can not enjoy these rights to a greater extent or for a longer period of time than in their native country.

#### ARTICLE II.

Any person in either country desiring protection of his trade-mark in the dominions of the other must fulfill the formalities required by the law of the latter; but no person, being a subject or citizen of one of the contracting States, shall be entitled to claim protection in the other by virtue of the provisions of this convention, unless he shall have first secured protection in his own country in accordance with the laws thereof.

#### ARTICLE III.

This arrangement shall go into effect immediately on or after the exchange of the ratifications, and shall be in force until a year after it has been recalled by the one or the other of the two high parties.

#### ARTICLE IV.

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Denmark, and the rati-

fications shall be exchanged at Copenhagen as soon as may be within ten months from the date hereof.

In witness whereof the undersigned have signed the present convention and have affixed thereto the seal of their arms.

Done at Copenhagen in double expedition the 15th June, 1892.

[SEAL.]  
[SEAL.]

CLARK E. CARR.  
REEDTZ THOTT.

#### FRANCE.

*Convention concerning trade-marks, concluded April 16, 1869; ratifications exchanged at Washington, July 3, 1869; proclaimed July 6, 1869.*

#### ARTICLE I.

Every reproduction in one of the two countries of trade-marks affixed in the other to certain merchandise to prove its origin and quality is forbidden, and shall give ground for an action for damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven, just as if the plaintiff were a subject or citizen of that country.

The exclusive right to use a trade-mark for the benefit of citizens of the United States in France, or of French subjects in the territory of the United States, can not exist for a longer period than that fixed by the law of the country for its own citizens.

If the trade-mark has become public property in the country of its origin, it shall be equally free to all in the other country.

#### ARTICLE II.

If the owners of trade-marks, residing in either of the two countries, wish to secure their rights in the other country, they must deposit duplicate copies of those marks in the Patent Office at Washington, and in the clerk's office of the Tribunal of Commerce of the Seine, at Paris.

#### ARTICLE III.

The present arrangement shall take effect ninety days after the exchange of ratifications by the two governments, and shall continue in force for ten years from this date.

In case neither of the two high contracting parties gives notice of its intention to discontinue this convention, twelve months before its expiration, it shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

#### ARTICLE IV.

The ratifications of this present arrangement shall be exchanged at Washington within ten months, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed the present convention in duplicate, and affixed thereto the seal of their arms.

Done at Washington the 16th day of April, in the year of our Lord 1869.

[SEAL.]  
[SEAL.]

HAMILTON FISH.  
BERTHEMY.

#### GERMAN EMPIRE.

*Convention respecting consuls and trade-marks, concluded December 11, 1871; ratifications exchanged at Berlin April 29, 1872; proclaimed June 1, 1872.*

#### ARTICLE XVII.

With regard to the marks or labels of goods, or of their packages, and also with regard to patterns and marks of manufacture and trade, the citizens of Germany shall enjoy in the United States of America, and American citizens shall enjoy in Germany, the same protection as native citizens.

#### ARTICLE XVIII.

The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be exchanged at Berlin within the period of six months.

In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall remain in force one year longer, and so on, from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

In faith whereof the plenipotentiaries have signed and sealed this convention.

Berlin, the 11th of December, 1871.

[SEAL.]  
[SEAL.]

GEO. BANCROFT.  
B. KÖENIG.

#### GREAT BRITAIN.

*Declaration respecting trade-marks, concluded October 24, 1877; ratification advised by Senate May 22, 1878; ratified by President May 25, 1878; proclaimed July 17, 1878.*

The Government of the United States of America and the Government of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The subjects or citizens of each of the contracting parties shall have, in the dominions and possessions of the other, the same rights as belong

to native subjects or citizens, or as are now granted or may hereafter be granted to the subjects and citizens of the most favored nation, in everything relating to property in trade-marks and trade labels.

It is understood that any person who desires to obtain the aforesaid protection must fulfill the formalities required by the laws of the respective countries.

In witness whereof the undersigned have signed the present declaration, and have affixed thereto the seal of their arms.

Done at London, the 24th day of October, 1877.

[SEAL.]  
[SEAL.]

EDWARDS PIERREPONT.  
DERBY.

#### ITALY.

*Declaration for the reciprocal protection of marks of manufacture and trade, concluded June 1, 1882; ratification advised by the Senate February 25, 1884; proclaimed March 19, 1884.*

#### DECLARATION.

The Government of the United States of America and the Government of His Majesty the King of Italy, wishing to provide for the reciprocal protection of the marks of manufacture and trade, have agreed as follows:

The citizens of each of the high contracting parties shall enjoy, in the dominions and possessions of the other, the same rights as belong to native citizens, or as are now granted or may hereafter be granted to the subjects or citizens of the most favored nation, in everything relating to property in trade-marks and trade labels.

It is understood that any person who desires to obtain the aforesaid protection must fulfill the formalities required by the laws of the respective countries.

In witness whereof the undersigned, having been duly authorized to this effect, have signed the present declaration, and have affixed thereto the seal of their arms.

Done in duplicate original at Washington, this 1st day of June, 1882.

[SEAL.]  
[SEAL.]

FRED'K T. FRELINGHUYSEN.  
FAVA.

[NOTE.—Inasmuch as the act of Congress, entitled "An act relating to the registration of trade-marks," approved March 3, 1881, gives the right of trade-mark registry to subjects of any foreign country which by law admits the like right for citizens of the United States, this declaration is held to be an establishment of the fact that such reciprocal privilege exists, and is therefore effective from June 1, 1882, the date of its signature.]

## NETHERLANDS.

The object of a convention is accomplished by the exchange of diplomatic notes, as follows:

(1) *Mr. de Weckherlin to Mr. Frelinghuysen.*

LEGATION OF THE NETHERLANDS,  
Washington, February 10, 1883.

Mr. SECRETARY OF STATE:

I have the honor herewith to transmit to your excellency a copy of the official edition of the Dutch law relative to trade-marks, bearing date of May 25, 1880.

The provisions of this law make no distinction between natives of the Netherlands and foreigners, so that citizens of the United States of America receive the same usage in the Netherlands as my countrymen as regards everything connected with the registration and protection of their trade-marks.

It consequently seems that so far as the Netherlands are concerned, the conditions of reciprocity are fulfilled which are established for the registration and protection of foreign trade-marks in the United States of America by the act of Congress approved March 3, 1881, which allows the registration of trade-marks whose owners reside in foreign countries, the laws of which grant the same privilege to the citizens of the United States of America.

I have, therefore, been instructed by my Government to beg your excellency to be pleased, if there are no objections, to cause the adoption of the measures necessary in order that subjects of the Netherlands may hereafter avail themselves in the United States of America of the act of Congress to which I have just referred.

Be pleased to accept, Mr. Secretary of State, etc.,

G. DE WECKHERLIN.

(2) *Mr. Frelinghuysen to Mr. de Weckherlin.*

DEPARTMENT OF STATE,  
Washington, February 16, 1883.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, by which you communicate to me the text of the Netherlands law of the 25th of May, 1880, concerning marks of trade and commerce.

I have taken due note of your statement that this law makes no distinction between Netherlanders and foreigners, so that the citizens of the United States are treated in the Low Countries on the same footing

as the natives thereof in all that concerns the registration and protection of their commercial and trade marks.

As the enacting clause of the act of Congress of March 3, 1881, "to authorize the registration of trade-marks and protect the same," provides in terms as follows: "That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States, or located in any foreign country or tribes which by treaty, convention, or law afford similar privileges to citizens of the United States may obtain registration of such trade-marks by complying with" the requirements of that act, and as your declaration establishes the fact that the Netherlands law gives similar privileges to citizens of the United States located in the Low Countries, the fact of entire reciprocity of usage between the two countries in this respect may now be regarded as established and evidenced by the present exchange of diplomatic notes, and as henceforth operative without further formalities between them.

Accept, sir, etc.,

FREDERICK T. FRELINGHUYSEN.

#### RUSSIA.

*Article respecting trade-marks, additional to the treaty of navigation and commerce of December 6-18, 1832, concluded at Washington January 27, 1868; ratifications exchanged at St. Petersburg September 21, 1868; proclaimed October 15, 1868.*

#### ADDITIONAL ARTICLE.

The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise, to show its origin and quality, shall be strictly prohibited and repressed, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade-marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other must be lodged exclusively, to wit, the marks of citizens of the United States in the Department of Manufactures and Inland Commerce at St. Petersburg, and the marks of Russian subjects at the Patent Office in Washington.

This additional article shall be terminable by either party, pursuant to the twelfth article of the treaty to which it is an addition. It shall be ratified by the President, by and with the advice and consent of the Senate of the United States, and by His Majesty the Emperor of all the Russias, and the respective ratifications of the same shall be ex-

changed at St. Petersburg within nine months from the date hereof, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington the 30th day of March, in the year of our Lord 1867.

[SEAL.]

[SEAL.]

WILLIAM H. SEWARD.

EDOUARD DE STOECKL.

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*Declaration respecting previous treaty stipulations in regard to trade-marks signed March 28, 1874; proclaimed November 24, 1874.*

#### ARTICLE I.

With regard to marks of goods or of their packages, and also with regard to marks of manufacture and trade, the citizens of the United States of America shall enjoy in Russia, and Russian subjects shall enjoy in the United States, the same protection as native citizens.

#### ARTICLE II.

The preceding article, which shall come immediately into operation, shall be considered as forming an integral part of the treaty of the  $\frac{6}{18}$ <sup>th</sup> December, 1832, and shall have the same force and duration as the said treaty.

In faith whereof the undersigned have drawn up and signed the present declaration, and affixed thereto their seals.

Done in duplicate in the English and Russian languages at St. Petersburg, this  $\frac{16}{28}$ <sup>th</sup> day of March, 1874.

[SEAL.]

[SEAL.]

MARSHALL JEWELL.

GORTCHACOW.

#### SERBIA.

*Convention for facilitating and developing commercial relations, concluded at Belgrade October 14, 1881; ratifications exchanged at Belgrade November 15, 1882; proclaimed December 27, 1882.*

#### ARTICLE XII.

The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise to show its origin and quality shall be strictly prohibited and repressed and shall give ground for an action of damages in favor of the injured parties, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade-marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other, must be registered exclusively, to wit: The marks of citizens of the United States in the tribunal of commerce at Belgrade, and the marks of Serbian subjects in the Patent Office at Washington, subject to the conditions and restrictions prescribed by the laws and regulations of the country in which the trade-marks are registered.

#### SPAIN.

*Convention concerning trade-marks, concluded June 19, 1882; ratifications exchanged at Washington April 19, 1883; proclaimed April 19, 1883.*

#### ARTICLE I.

The citizens and subjects of each of the two contracting parties shall enjoy, in the dominions and possessions of the other, the same rights as the natives of the country in everything relating to the ownership of trade-marks, industrial designs or models, or of manufactures of any kind.

#### ARTICLE II.

Persons desiring to secure the aforesaid protection shall be obliged to comply with the formalities required by the laws of the respective countries.

#### ARTICLE III.

This convention shall take effect as soon as it shall have been promulgated in both countries; and shall remain in force for ten years thereafter, and further until the expiration of one year after either of the contracting parties shall have given notice to the other of its wish to terminate the same; each of the contracting parties being at liberty to give such notice to the other at the end of said period of ten years or any time thereafter.

The ratifications of this convention shall be exchanged at Washington as soon as possible within one year from this date.

In testimony whereof the respective plenipotentiaries have signed this convention in duplicate, in the English and Spanish languages, and affixed thereto the seals of their arms.

Done at Washington, the 19th day of June, in the year of our Lord 1882.

[SEAL.]

[SEAL.]

FRED'K T. FRELINGHUYSEN.

FRAN<sup>CO</sup> BARCA.

## SWITZERLAND.

The object of a convention is accomplished by the exchange of diplomatic notes, as follows:

(1) *Mr. Frey to the Secretary of State.*

SWISS LEGATION,  
Washington, April 27, 1883.

Mr. SECRETARY OF STATE:

The undersigned, minister of the Swiss Confederation, has this day had the honor to receive your note of the 24th instant \* \* \* relative to the mutual protection of trade-marks.

The undersigned sees by the aforesaid note that you would prefer to make such an arrangement between the United States and Switzerland in the form of an exchange of notes, inasmuch as that form appears to you to be the most simple and the best calculated to avoid the difficulties connected with the ratification of a declaration or convention.

The undersigned has the honor to reply that, \* \* \* by a communication of the 6th of March last, he laid before the Federal Council the text of your note of the 5th of that month, and at the same time he proposed to try an exchange of declarations which, as regards the form, would coincide with your views. The Federal Council having consented thereto by its communication of March 30, and having instructed the undersigned with full powers to make such an arrangement, the undersigned thinks that he represents the intentions of his Government by giving his adhesion to an exchange of notes.

As regards the question whether the principle of reciprocity is embodied in the Federal law of December 19, 1879, the undersigned has the honor to invite your attention to the text of article 7, paragraph 2, of the Federal law of December 19, 1879, and also to the contents of the message of the Federal Council relative thereto. In the aforesaid paragraph of the law of December 19, 1879, it is expressly provided that producers and merchants, whose business is carried on in a state which accords the right of reciprocity to Swiss citizens, may have their marks registered in the same manner as Swiss citizens. But one condition is added, viz.: That foreigners shall be obliged to prove that these marks are already protected in the state to which they belong, the sole object of which reservation is to prevent foreigners from depositing with fraudulent intent, under the protection of reciprocity, marks for which they can not claim protection in their own country. The Federal Council, moreover, in its message of October 13, 1879, whereby it transmitted to the Federal Chambers a bill for the protection of trade-marks, made the following declaration touching trade marks: "As regards foreign trade marks we are of opinion that Switzerland should stand upon the ground of reciprocity, and that this is the only position that should be taken by us in the interest of our industry."

In view of this declaration the Federal Chambers, in accepting without material modification the aforesaid paragraph 2 of article 7 of the law in question, were without doubt actuated by a desire to embody the principle of full reciprocity in the law.

The undersigned takes the liberty in conclusion, to ask your attention to the fact that the Confederation has, since the promulgation of the aforesaid law, concluded a convention with various states for the protection of trade-marks upon the basis of reciprocity—for instance, with Great Britain, Belgium, and the Netherlands; and that the Confederation, previously to the promulgation of that law, guaranteed, in its commercial treaties with France, Germany and Italy, protection in Switzerland for their trade-marks to the citizens or subjects of those states.

The undersigned thinks that he has by the foregoing furnished proof that the Confederation recognizes the principles of reciprocity as regards the international protection of trade-marks as an integral part of its public law, and that the United States may, with the most perfect confidence, enter into such an arrangement with the Confederation.

The undersigned avails himself, etc.

E. FREY.

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(2) *Mr. Davis to Mr. Frey.*

DEPARTMENT OF STATE,

Washington, May 14, 1883.

COLONEL: I have the honor to acknowledge the receipt of your note of the 27th ultimo, concerning the reciprocal privilege of trade-marks registration in the United States and Switzerland.

It gives me much pleasure to accept your declaration as evidence that the law of Switzerland affords such a guaranty of reciprocity in the matter as will make the application of the privileges of the act of Congress of March 3, 1881, to owners of trade-marks in Switzerland proper and certain.

This exchange of notes accomplishes the end in view of securing complete reciprocity under the legislation of the respective countries, and I have therefore communicated your note to the Secretary of the Interior, with this reply, and requested him to make the necessary regulations for admitting Swiss trade-marks to all the privileges of registration which under that act pertain to the trade-marks of American origin.

Now that the immediate object of our late correspondence on the subject is attained, permit me to suggest that with a view to rendering the engagements of this Government with foreign nations as uniform as possible the Government should be pleased to conclude and sign with you a formal trade-marks convention, similar to that lately con-

cluded with Spain, to which I have before referred, and of which I inclose a printed copy herewith.

Our present diplomatic accord will, of course, hold good until such formal convention can be made effective by ratification and exchange.

Accept, colonel, a renewed assurance of my highest consideration.

JOHN DAVIS,  
*Acting Secretary.*

### INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY.

*Convention and final protocol for the protection of industrial property between Belgium, Brazil, France, Guatemala, Italy, Netherlands, Portugal, Salvador, Servia, Spain, Switzerland, and acceded to by Dominican Republic, Great Britain,\* Sweden and Norway, the United States, and Tunis,† concluded at Paris March 20, 1883; ratifications exchanged by signatory powers at Paris, June 6, 1884; accession of the United States to the Union announced by the minister resident and consul-general of the United States at Berne to the Federal Council of Switzerland, May, 30, 1887; proclaimed June 11, 1887.*

#### ARTICLE 1.

The governments of Belgium, of Brazil, of Spain, of France, of Guatemala, of Italy, of the Netherlands, of Portugal, of Salvador, of Servia, and of Switzerland have constituted themselves into a state of union for the protection of industrial property.

#### ARTICLE 2.

The subjects or citizens of each of the contracting states shall enjoy, in all the other states of the union, so far as concerns patents for inventions, trade or commercial marks, and the commercial name, the advantages that the respective laws thereof at present accord, or shall afterwards accord, to subjects or citizens. In consequence they shall have the same protection as these latter, and the same legal recourse against all infringements of their rights, under reserve of complying

\* The British colonies of New Zealand and Queensland have acceded to the union, their accession taking effect September 17, 1891.

† The Republic of Salvador withdrew from the Union August 17, 1887.

The several states hereinafter named have declared that their accession to the international union includes that of their colonies and possessions hereinafter enumerated, namely:

France: Martinique, Guadeloupe and dependencies, Rennion and dependency, (St. Mary of Madagascar) Cochin China, St. Pierre, Miquelon, Guiana, Senegal and dependencies (Rivières du Snd, Grand Bassau, Assimie, Porto Novo and Kotonou), the Congo and of the Gaboon, Mayotte, Nossi-Bé, the French establishments in India (Pondicherry, Chandernagore, Karikal, Mahé, Yanaon), New Caledonia, the French establishments in Oceanica (Tahiti and dependencies) Obock and Diégo-Suarez.

Portugal: The Azores and Madeira.

Spain: Cuba, Porto Rico, and the Philippines.

with the formalities and conditions imposed upon subjects or citizens by the domestic legislation of each State.

#### ARTICLE 3.

Are assimilated to the subjects or citizens of the contracting states, the subjects or citizens of states not forming part of the union, who are domiciled or have industrial or commercial establishments upon the territory of one of the states of the union.

#### ARTICLE 4.

Anyone who shall have regularly deposited an application for a patent of invention, of an industrial model, or design, of a trade or commercial mark, in one of the contracting states, shall enjoy, for the purpose of making the deposit in the other states, and under reserve of the rights of third parties, a right of priority during the periods hereinafter determined.

In consequence, the deposit subsequently made in one of the other states of the union, before the expiration of these periods, can not be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its workings by a third party, by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above mentioned shall be six months for patents of invention and three months for designs or industrial models, as well as for trade or commercial marks. They shall be augmented by one month for countries beyond the sea.

#### ARTICLE 5.

The introduction by the patentee into countries where the patent has been granted, of articles manufactured in any other of the states of the union, shall not entail forfeiture.

The patentee, however, shall be subject to the obligation of working his patent conformably to the laws of the country into which he has introduced the patented articles.

#### ARTICLE 6.

Every trade or commercial mark regularly deposited in the country of origin shall be admitted to deposit and so protected in all the other countries of the union.

Shall be considered as country of origin, the country where the depositor has his principal establishment.

If this principal establishment is not situated in one of the countries of the union, shall be considered as country of origin that to which the depositor belongs.

The deposit may be refused if the object for which it is asked is considered contrary to morals and to public order.

**ARTICLE 7.**

The nature of the production upon which the trade or commercial mark is to be affixed can not in any case be an obstacle to the deposit of the mark.

**ARTICLE 8.**

The commercial name shall be protected in all the countries of the union without obligation of deposit, whether it forms part or not of a trade or commercial mark.

**ARTICLE 9.**

Every production bearing, unlawfully, a trade or commercial mark, or a commercial name, may be seized upon importation into those of the states of the union in which such mark or such commercial name has a right to legal protection.

The seizure shall take place either at the instance of the public prosecutor or of the interested party, conformably to the domestic legislation of each state.

**ARTICLE 10.**

The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention.

Is reputed interested party every manufacturer or trader engaged in the manufacture or sale of this production, when established in the locality falsely indicated as the place of export.

**ARTICLE 11.**

The high contracting parties engage between themselves to accord a temporary protection to patentable inventions, to industrial designs or models, as well as to trade or commercial marks, for the productions which may figure at official or officially recognized international exhibitions.

**ARTICLE 12.**

Each one of the high contracting parties engages to establish a special service of industrial property and a central depot, for giving information to the public concerning patents of invention, industrial designs or models, and trade or commercial marks.

**ARTICLE 13.**

An international office shall be organized under the title of "International Bureau of the Union for the Protection of Industrial Property."

This Bureau, the cost of which shall be supported by the governments of all the contracting states, shall be placed under the high authority of the superior administration of the Swiss Confederation, and shall work under its supervision. Its powers shall be determined by common accord between the states of the union.

#### ARTICLE 14.

The present convention shall be submitted to periodical revisions for the purpose of introducing improvements calculated to perfect the system of the union.

With this object, conferences shall take place successively in one of the contracting states between the delegates of said states.

The next meeting shall take place in 1885 at Rome.

#### ARTICLE 15.

It is understood that the high contracting parties respectively reserve the right to make, separately, between themselves, special arrangements for the protection of industrial property so far as these arrangements shall not interfere with the provisions of the present convention.

#### ARTICLE 16.

The states that have not taken part in the present convention shall be admitted to adhere to the same upon their application.

This adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It shall convey, of full right, accession to all the clauses and admission to all the advantages stipulated by the present convention.

#### ARTICLE 17.

The execution of the reciprocal engagements contained in the present convention is subordinated, in so far as needful, to the accomplishment of the formalities and rules established by the constitutional laws of such of the high contracting parties as are bound to ask the application thereof, which they agree to do within the shortest delay possible.

#### ARTICLE 18.

The present convention shall be put into execution within a month after exchange of ratifications, and shall remain in force during a period of time not determined, until the expiration of one year from the day upon which the denunciation shall be made.

This denunciation shall be addressed to the government empowered to receive adhesions. It shall only produce its effect as regards the

state making it, the convention remaining executory for the other contracting parties.

#### ARTICLE 19.

The present convention shall be ratified and the ratifications shall be exchanged at Paris within the period of one year at the latest.

#### FINAL PROTOCOL.

On proceeding to the signature of the convention, concluded this day between the governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland, for the protection of industrial property, the undersigned plenipotentiaries have agreed on the following:

(1) The words *industrial property* are to be understood in their widest acceptation, in the sense that they apply not only to the productions of industry properly so called, but equally to the productions of agriculture (wines, grains, fruits, cattle, etc.) and to mineral productions used in commerce (mineral waters, etc.).

(2) Under the name *patents of invention* are included the various classes of industrial patents granted by the laws of the contracting states, such as patents of importation, patents of improvement, etc.

(3) It is understood that the final provision of Article 2 of the convention shall in no respect infringe upon the laws of each of the contracting states, so far as concerns the procedure before the courts and the competence of the said courts.

(4) Paragraph 1 of Article 6 is to be understood in the sense that no trade or commercial mark shall be excluded from protection in one of the states of the union by the mere fact that it may not satisfy, in respect to the signs composing it, the conditions of the laws of this state, provided that it does satisfy in this regard the laws of the country of origin, and that it has been in this latter country duly deposited. Saving this exception, which concerns only the form of the mark, and under reservation of the provisions of the other articles of the convention, the domestic legislation of each of the states shall receive its due application.

In order to avoid all misinterpretation, it is understood that the use of public armorial bearings and decorations may be considered contrary to public order in the sense of the final paragraph of Article 6.

(5) The organization of a special service of industrial property mentioned in Article 12, shall include as far as is possible, the publication in each state of an official periodical.

(6) The common expenses of the international bureau created by Article 13 shall in no case exceed yearly a sum total representing a mean of 2,000 francs for each contracting state.

In order to determine the contributory share of each of the states in this sum total of expenses, the contracting states and those who may

hereafter adhere to the union shall be divided into six classes, each contributing in proportion of a certain number of units, namely: First class, 25 units; second class, 20 units; third class, 15 units; fourth class, 10 units; fifth class, 5 units; sixth class, 3 units.

These coefficients shall be multiplied by the number of the states of each class, and the sum of the products thus obtained shall furnish the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.

The contracting states are classified as follows in respect to the division of the expenses:

*First class.*—France, Italy.\*

*Second class.*—Spain.

*Third class.*—Belgium, Brazil, Portugal, Switzerland.

*Fourth class.*—Netherlands.

*Fifth class.*—Servia.

*Sixth class.*—Guatemala, Salvador.

The Swiss Government shall supervise the expenditure of the international bureau, make the necessary advances, and state the annual account, which shall be communicated to all the other governments.

The international bureau shall collect information of every kind relating to the protection of industrial property, and shall compile from it general statistics, which shall be transmitted to all the governments. It shall occupy itself with examinations of general utility which may be of interest to the union, and shall publish, with the assistance of the documents put at its disposal by the various governments, a periodical in the French language on questions which concern the object of the union.

The numbers of this periodical and all the documents published by the international bureau shall be partitioned among the governments of the states of the union in the proportion of the number of contributory units above mentioned.

The copies and supplementary documents which may be requested either by the said governments or by corporations or private persons shall be paid for separately.

The international bureau must always hold itself at the disposal of the members of the union, in order to furnish them, on questions relating to the international service of industrial property, with such special information as they may need.

The government of the country where the next conference is to be held shall prepare, with the assistance of the international bureau, the work of the said conference.

The director of the international bureau shall be present at the sessions of the conferences, and shall take part in the discussions without voting.

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\*On the accession of the United States and Great Britain both were assigned to the first class.

He shall make an annual report on its management, which shall be communicated to all the members of the union.

The official language of the international bureau shall be the French language.

(7) The present final protocol, which shall be ratified at the same time as the convention concluded this day, shall be considered as forming an integral part of that convention, and shall have the same force, value, and duration.

#### SUPPLEMENTAL CONVENTION

*Between the United States, Belgium, Brazil, France, Great Britain, Guatemala, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and Tunis, amatory of the convention of March 20, 1883, for the protection of industrial property. Concluded at Madrid April 15, 1891; ratification advised by the Senate March 2, 1892; ratified by the President March 30, 1892; ratifications exchanged June 15, 1892; proclaimed June 22, 1892.*

ARTICLE 1. The first paragraph of No. 6 of the final protocol annexed to the international convention of March 20, 1883, for the protection of industrial property is annulled and replaced by the following provision:

"The expenses of the international bureau instituted by Article 13 shall be supported by the contracting states in common. They can not in any event exceed the sum of sixty thousand francs per annum."

ART. 2. The present protocol shall be ratified, and the ratification thereof shall be exchanged at Madrid within a period of six months at the latest.

It shall take effect one month after the exchange of ratifications, and shall have the same force and duration as the convention of March 20, 1883, of which it shall be considered as forming an integral part.

In testimony whereof the plenipotentiaries of the states above-named have signed the present protocol at Madrid the 15th day of April, 1891.







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